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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/600,335	07/14/2000	Michael Koblbauer	951/48953	2648
23911	7590	09/02/2004	EXAMINER	
CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			YANG, CLARA I	
			ART UNIT	PAPER NUMBER
			2635	

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/600,335

Applicant(s)

KOBLEBAUER, MICHAEL

Examiner

Clara Yang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13 and 17-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-30 is/are allowed.
- 6) ☒ Claim(s) 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Response to Arguments***

1. Applicant's arguments filed on 14 June 2004 have been fully considered but they are not persuasive.

On page 2, the applicant maintains that U.S. Patent No. 5,552,789 (Schuermann) "does not teach or suggest continuing the interrogation of an access verification device transponder while the vehicle is running." The applicant adds that "the Examiner argues that col. 8, lines 46 - 58 of SCHUERMAN suggests that '... the vehicle will cease operating if transponder 22 fails to provide the proper identification code to the automobile ignition control module during the interrogation process'" and that "[the] passages cited by SCHUERMAN...would be understood by one of skill in the art as a recognition that a vehicle could be started in an authorized manner with a mechanical key and would then be turned off should the legitimate transponder not respond properly. The examiner respectfully disagrees because in Col. 7, lines 4 - 9, Schuermann states that "the transponder alone or in combination with the mechanical aspects of the key may be used to provide ignition control" and that "until the proper identification code is provided to the automobile ignition control module, the automobile will not start or if started will not continue to run." Schuermann clearly teaches that key transponder 22 by itself is able to control the ignition. Furthermore, in order for the ignition to cease operating due to failure of receiving the proper identification code, Schuermann's key transponder 22 must be interrogated during the operation of the vehicle as required by claim 13. Periodic or regular interrogation of key transponder 22 is supported in Col. 8, lines 54 - 63 ("Transponders...22 and 30 are regularly interrogated at regular time intervals by controller 10...") and Col. 9, lines 40 - 46.

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In response to the applicant's arguments that "turning off an engine during the driving of the vehicle is dangerous and that "[the] Examiner's effort to construct a system that would turn off an engine during the drive based on the combination of LAMBROPOULOS and SCHUERMANN would be dangerous", it is noted that the features upon which applicant relies (i.e., that the engine remains running when interrogation is unsuccessful) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Allowable Subject Matter

2. Claims 17 - 24 and 25 - 30 are allowed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,736,935 (Lambropoulos) in view of U.S. Patent No. 5,552,789 (Schuermann).

Lambropoulos teaches a transceiver C (see Fig. 2) that is mounted within a vehicle and performs two separate and independent interrogations. The first interrogation process will permit an operator to enter the vehicle if a transceiver A, which is carried by the operator, transmits a proper security code to transceiver C (see Col. 3, lines 34 - 65). Transceiver C's second interrogation occurs at the start of the operation of the vehicle. Once the operator is sitting in driver's seat and depressing the brake pedal, Lambropoulos imparts that transceiver C

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will transmit a second or start engine interrogation signal, which is received by transceiver A. If the received interrogation code matches with the prestored interrogation code, transceiver A will transmit a reply to transceiver C. If the security code contained in transceiver A's reply, transceiver C will initiate the starting of the vehicle's engine. (See Col. 3, lines 66 - 67; Col. 4, lines 1 - 12; and Col. 7, lines 36 - 62.) Lambropoulos imparts that once the engine is running, transceiver C ceases all interrogation activities (see Col. 9, lines 56 - 60).

In an analogous art, Schuermann teaches a method for operating a vehicle in which access authorization is determined via a dialog between a control device fixed in the vehicle (called a "TIRIS reader") and an authorization verification device (called a "key transponder") carried by a user (see Col. 6, lines 60 - 63 and Col. 8, lines 54 - 63). Per Schuermann, key transponder 22 is also used to provide ignition control, wherein the vehicle will not start or continue to run (if started) until the proper identification code is provided to the vehicle ignition control module (see Col. 7, lines 4 - 9). Schuermann discloses that the TIRIS reader regularly interrogates the transponders installed in the vehicle (see Fig. 1, transponders 20₁ to 20_n) and key transponder 22 (see Fig. 1, key 22) at regular time intervals (see Col. 8, lines 46 - 48). Here it is understood that the regular interrogation of key transponder 22 occurs while the vehicle is operating.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the security system of Lambropoulos as taught by Schuermann because continuing the interrogation process during the operation of the vehicle maintains a high level of security by (1) requiring the presence of the transponder in order for the vehicle to operate and (2) disabling the vehicle in the event the rightful user and the transmitter/transponder are forced out of the vehicle during a car jacking.

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Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clara Yang whose telephone number is (571) 272-3062. The examiner can normally be reached on 8:30 AM - 7:00 PM, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (571) 272-3068. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CY
26 August 2004



BRIAN ZIMMERMAN
PRIMARY EXAMINER